

REMARKS

Claims 1-18 are currently pending. Claims 1, 3-6, 11, 15-16, and 18 are currently amended. No new matter has been added.

Independent claim 1 is amended to more particularly point out that the osteosynthetic device comprises an intramedullary nail.

Claims 3-6, 11, 15-16, and 18 are amended to remove the narrow range within the broad range described within each respective claim.

Claim 18 is amended to correct a grammatical error.

Objection to the Specification

The abstract of the disclosure was objected to because it used a phrase that implies, e.g. "The invention relates." As abstract is amended to remove the phrase, Applicants submit this objection is moot.

Objections to the Drawings

The drawings were objected to because the reference character "r" was not shown in the drawings. As attached in Appendix A, Replacement Sheet 1/2 is amended to depict the radius represented by the reference character "r." No new matter is added, as radius "r" appears, *inter alia*, at paragraph [0026] of the specification as filed.

The drawings were objected to because the reference number "7" is not listed in the description. The specification is amended to refer to the holes using the reference number "7." No new matter is added, as holes referred to by reference number "7" appear, *inter alia*, in Figure 2 of the specification as filed.

The drawings were objected to under 37 CFR § 1.83(a) for failing to show that the helix near the first end is thicker than the portion near the second end. However, where a feature's detailed illustration is not essential for a proper understanding of the invention, the feature should be illustrated in the form of a labeled representation. 37 CFR § 1.83(a). In the instant application, the feature is properly illustrated in the form of a labeled representation. The first end is labeled 2 and the second end is labeled 3. (See paragraph [0026], Figures 1, 2). Claim 13 particularly points out that the helix near the first end (labeled "2") is thicker than the portion near the second end (labeled "3"). Thus, a detailed drawing of a tapering helix is not essential for a proper understanding of the invention. The feature is properly illustrated by the labeling of first end and second end in combination with Claim 13.

Applicants submit that these objections should be withdrawn.

Objection to the Claims

Claim 18 was objected to because of an informality. As claim 18 is currently amended to correct the informality, Applicants submit that this objection is moot.

Rejections under 35 U.S.C. § 112

Claims 3-6, 11, 15-16, and 18 were rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter. As claims 3-6, 11, 15-16, and 18 are amended to remove the narrow range within the broad range in each respective claim, Applicants submit that the rejections should be withdrawn.

Rejections under 35 U.S.C. § 102

Claims 1, 2, 7, 9, 13, 14, and 17 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,626,613 to Schmieding ("Schmieding"). Applicants submit these rejections should be withdrawn.

Claim 1 recites an osteosynthetic device comprising an intramedullary nail. Schmieding fails to disclose an intramedullary nail. An intramedullary nail is a device to be inserted into the intramedullary canal of to provide support to fractures of long bones. (See paragraphs [0002]-[0006], [0008], [0010] of the present application). Schmieding discloses a suture anchor that secures soft tissue to the bone. It does not disclose a device to be inserted into a intramedullary canal, or capable of providing support to fractured long bones. As Schmieding fails to disclose an intramedullary nail, Applicants respectfully submit that the rejection of claim 1 should be withdrawn. As claims 2, 7, 9, 13, 14, and 17 depend on claim 1, Applicants respectfully submit that the rejections of these claims should be withdrawn as well, for at least this reason.

Rejections under 35 U.S.C. § 103

Claims 3-6, 8, 10-12, 15-16, and 18 were rejected under 103(a) as being unpatentable over Schmieding. Independent claim 1 is not obvious in light of Schmieding because Schmieding does not teach, suggest, or describe an intramedullary nail, as discussed above. As claims 3-6, 8, 10-12, 15-16, and 18 depend on claim 1, the Applicants respectfully submit that the rejections of these claims should be withdrawn.

CONCLUSION

It is believed that claims 1-18 are in condition for allowance. Should the Examiner not agree with Applicants' position, then a personal or telephonic interview is respectfully requested to discuss any remaining issues.

A one month extension fee in the amount of \$120 is believed due for this response. Please charge this fee, and any additional fee(s) that may be due, to Jones Day Deposit Account No. 503013.

Respectfully submitted,

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APPENDIX A

Replacement Sheet 1/2